

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 52 OF 2007

MR. THEO PINTO PRESENTLY IN
CUSTODY THROUGH HIS NEXT FRIEND
HIS WIFE JULIET PINTO

....Appellant

Versus

THE STATE OF GOA THROUGH THE
PORVORIM POLICE STATION AND ANR

....Respondents

Mr. S. D. Lotlikar, Senior Advocate with Mr. Ryan Menezes, Advocate
for the Applicant.

Ms. Winnie Coutinho, Public Prosecutor for the Respondents.

Coram:- N. A. BRITTO, J.

Date:- 15th March, 2007

P.C.:-

Heard Mr. S. D. Lotlikar, the learned Senior Counsel on behalf of the applicant and Ms. Winnie Coutinho, the learned Public Prosecutor on behalf of the respondents.

The applicant was arrested on 28-2-2007 at 12.00 hours and since then is in custody. He filed an application for bail before the Court of Sessions but the same was rejected by Order dated 2-3-2007.

The applicant was arrested in Crime No. 18 of 2007 under Section 304 I.P.C. with the allegation that the applicant assaulted the deceased with back portion of the spade on his head. I have perused the memorandum of autopsy which does not show that any injury was caused to the head. On the contrary, the memorandum of autopsy shows that the deceased died due to internal haemorrhagic shock as a result of laceration of spleen caused by blunt force or object or surface impact which was ante-mortem and fresh at the time of death and was fatal in the ordinary course of nature. It would be difficult to accept at this stage in the light of

the said autopsy report that the death of the accused is directly attributable to the blow given on the head of the deceased.

The learned Public Prosecutor on behalf of the respondents submits that the investigations are still pending and charge-sheet is yet to be filed. The learned Counsel for the applicant submits that the applicant was sent to judicial custody after five days. The learned Public Prosecutor is at liberty to ensure that the investigations are completed and a charge-sheet is submitted. The same cannot come in the way of the applicant considering the facts of the case, on his being released on bail.

Considering the facts of the case, and particularly the autopsy report, the offence committed by the accused does not appear to be grave for which punishment would be severe.

The applicant therefore shall be released upon execution of a bond of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned ASJ-I(FTC), Panaji.

Expedite authenticated copy of the order be given to the learned Counsel for the applicant.

N. A. BRITTO, J.

RD.